

MINUTES

STATE OF WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

October 14, 2002 - Regular Meeting
4224 6th Avenue S.E., Building 1
Lacey, Washington, 1:30 p.m.

ITEM NO. 1: CALL TO ORDER

CHAIR LUCE: The October 14th regular meeting of the Washington Energy Facility Site Evaluation Council will come to order.

ITEM NO. 2: ROLL CALL

EFSEC Council Members

Community, Trade & Economic Development
Department of Ecology
Department of Fish & Wildlife
Department of Natural Resources
Utilities and Transportation Commission
Chair

Dick Fryhling
Chuck Carelli
Jenene Fenton
Tony Ifie
Tim Sweeney
Jim Luce

MR. MILLS: I note the presence of Chair Jim Luce, and there is a quorum.

EFSEC Staff and Counsel

Allen Fiksdal
Mike Mills

Michelle Elling
Rusty Fallis - AAG

EFSEC Guests

Karen McGaffey, Perkins Coie
Lauri Vigue, WDFW
Dave Danner, Governor's Office
Mike Lufkin, CFE
Darrel Peeples, Newport Northwest
Mark Anderson, CTED – Energy Policy

Laura Schinnell, Energy Northwest
Cindy Custer, BPA
John Arbuckle, Energy Northwest
Loren Oakes, Energy Northwest
Julian Dewell, ALJ

ITEM NO. 3: APPROVAL OF MINUTES

CHAIR LUCE: The next item on the agenda is the approval of the minutes. The minutes are for May 13th, June 10th, and special meetings October 1st, and October 8th. Have the Council Members had a chance to review those minutes, and are there any corrections or additions?

MR. FIKSDAL: On the October 8th special meeting minutes, if you turn to Page 4, there's a table down near the bottom, and it has the wrong project name in it. It should read the Wallula project.

CHAIR LUCE: Noted and corrected. So we'll strike the label Sumas on the October 8th meeting and insert Wallula. Anything else with respect to the minutes?

MR. CARELLI: Mr. Chair, I move we adopt the minutes from May 13th, June 10th, October 1st, and October 8th as amended.

CHAIR LUCE: Is there a second to that motion?

MS. FENTON: Second.

CHAIR LUCE: Discussion? Call for the question?

MR. CARELLI: Question.

CHAIR LUCE: All in favor.

COUNCIL MEMBERS: Aye.

CHAIR LUCE: We've unanimously approved the minutes for those four dates.

ITEM NO. 4: ADOPTION OF PROPOSED AGENDA

CHAIR LUCE: Now, the adoption of the proposed agenda. I'm going to propose to take an issue out of order, which is WNP-1/4 site restoration, and address it first. Are there any other items within the proposed agenda that we need to talk about now?

MR. FIKSDAL: Mr. Chairman, I would propose that under Item No. 5, Satsop Combustion Turbine Project, the first item, the Phase I consideration of the NPDES permit, the company has asked, and we have looked at what they have characterized it as technical inaccuracies in the NPDES permit. We would like to discuss with the company what they consider technical inaccuracy before we bring it to the Council, and we propose that this be postponed until next month to give us a chance to talk to the company and ensure that we have described the project accurately.

CHAIR LUCE: Thank you. I would like to have Council Members Carelli and Fenton sit in on those discussions if they feel that they have the time and willingness to do so.

MS. FENTON: Yes, I would be more than happy to.

MR. CARELLI: Yes.

CHAIR LUCE: Thank you. Is there anything else with respect to the ordering of the agenda that Council wants to change?

ITEM NO. 9: ENERGY NORTHWEST COLUMBIA STATION & WNP-1/4 SITE RESTORATION

<i>Columbia Operations</i>	<i>John Arbuckle, ENW</i>
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CHAIR LUCE: Mr. Arbuckle, do you have a report for us on Columbia operations?

MR. ARBUCKLE: We're at 100 percent power. The plant has been on line 232 days. It's running well. We loaded two spent fuel storage casks since our last meeting, so that's well underway.

MR. FIKSDAL: Have you rolled them out?

MR. ARBUCKLE: Yes. They are on the storage pad and it's all locked up out there.

CHAIR LUCE: Thank you. Yes, Mr. Carelli.

MR. CARELLI: While you have done that, could you comment on how that process went. Any problems?

MR. ARBUCKLE: It actually went very well. In fact, we had the NRC was here for our first loading. They were here providing 24-hour coverage and they said it went the best they've ever seen for a first loading. I could talk about that a little bit the next time when I come and explain how that works if you would like.

MR. CARELLI: Okay. I was just curious how long it took from the time you began loading to the point that you had the canister on the pad?

MR. ARBUCKLE: It takes eight days. We are trying to get that down to about seven. They've done a really, really magnificent job putting these plants together and loading the casks.

CHAIR LUCE: Anything else?

<i>WNP-1/4 Site Restoration</i>	<i>Jim Luce, EFSEC Chair</i>
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CHAIR LUCE: We will move ahead on the agenda with respect to WNP-1/4 site restoration. The Council is aware that this initiative has been ongoing for about 22 years, more or less, and in all fairness we have not paid quite as much attention to it as we could have. Energy Northwest and the Bonneville Power Administration have been taking the lead with respect to helping us craft a site restoration set of principles that would work for Energy Northwest, Bonneville and EFSEC, and I appreciate all of their help. The bottom line is these two projects, WNP-1 & 4 have been terminated, and the question now is what are we going to do about site restoration? The principles you have before you have been developed over several months and reflect the fact that several things will happen in fairly short order. In the next 18 to 24 months, Energy Northwest or their contractor, will be undertaking health, safety, and environmental activities. The cost of those activities may range in the neighborhood of four or more million dollars. Those will protect the site from any health and/or safety risks that currently do exist. We will then adopt a revised site restoration plan, which is characterized as Level 3D. Many of the Council Members are familiar with Level 3D. That is less than sagebrush and bunny rabbits but consistent with what other nuclear facilities that have been terminated are doing, and correct me if I get it wrong here, are doing nationally in terms of site restoration activities. Do we have maps here John?

MR. ARBUCKLE: Yes.

CHAIR LUCE: John Arbuckle has brought with him some maps, which would show you the site restoration footprints of WNP-1/4 as they exist today and as they will exist after Level 3D is implemented.

MR. ARBUCKLE: The only difference here will show the turbine pedestal and the transformer walls will still be there but the aprons surrounding the turbine pedestal will be removed.

CHAIR LUCE: Bonneville is going to fund Level 3D by a trust fund, which is described in Paragraph 3, and they will commence final site restoration by the year 2022 and finish by 2026. In consideration of that additional lengthy delay, Bonneville has agreed to pay to the state either through the Energy Siting Council or otherwise, three and a half million dollars for off-site environmental mitigation, and that payment is made in recognition of the agreed to level of site restoration and the additional delay for the completion of final site restoration. The bulk of those funds will be used in Benton County, Washington for environmental enhancement.

Finally, there are several housekeeping exercises, resolution provisions regarding how do we implement this agreement. Do we do so through an MOU and adoption of a site restoration plan

that is then attached to the existing site certification agreement? That's something we've left for the lawyers. As long as we have an enforceable agreement with Bonneville and Energy Northwest, I think the vehicle by which it is crafted, we'll leave to Counsel Rusty Fallis, Energy Northwest's counsel, and Bonneville's counsel. That's the sum and substance of it, and what I would like today is to have a sense of the Council and to ask our attorney, Rusty Fallis to begin discussions with Bonneville and begin drafting with Bonneville and Energy Northwest the document that is necessary to implement this agreement. I would hope that this could be done within the next 30 days. I think the principles are pretty clear, and I believe that Energy Northwest has provided us with a revised site restoration plan, which is very close to what we're talking about with respect to the principles. So with a little luck and a little hard work on the part of everyone, I think we can finalize this agreement within the next 30 days and put this issue behind us thanks to the good work of Bonneville and Energy Northwest. Yes Tony.

MR. IFIE: I don't have any problem with going ahead with doing the final negotiation, but I have some issues about what was negotiated already. Mike just said that either BP or Energy Northwest have already agreed to a proposal.

CHAIR LUCE: Both. Well, it actually has to go before the Energy Northwest board, and it has yet to be finally signed off on by Bonneville, but the people who were responsible for doing the negotiating have agreed, and I believe they have been delegated substantial authority by their principles to undertake this negotiation.

MR. IFIE: It seems there's some minor points that are not well spelled out here. Maybe that is something that the AG could work on. For instance, it talked about prioritizing projects, but it doesn't say who is doing it. Is that something you're comfortable with? The mechanics or the logistics is not complete.

CHAIR LUCE: The prioritization is something in the first instance that's being addressed by our staff, Mike Mills, by Energy Northwest, and by Bonneville, and I'm sure we will be undertaking those activities that pose the greatest health and safety risk first, but it's something to be negotiated.

MR. MILLS: Although a number of these activities have been already designated, they will be set out in a plan that comes back before the Council, and that was the document I was referring to Tony. Energy Northwest will submit a site restoration plan that will be reviewed by the Council and approved by the Council.

MR. IFIE: Okay. But I wasn't sure what the detail was going to look like, so there is going to be a plan.

MR. MILLS: That plan will have the detailing of health and safety improvements that Energy Northwest will undertake as approved by the Council.

MR. IFIE: Is the plan going to be coming to the Council in the next month, the next year?

MR. MILLS: It will be available in the next month, or shortly thereafter. It depends on when the principles agreement is finalized.

CHAIR LUCE: Mr. Carelli.

MR. CARELLI: For the most part I'm pretty comfortable with the principles that are laid out; although, I think the letter 3E stands in my mind as being my preferred level of restoration alternative. But in light of the offered off-site mitigation, I think this is an appropriate way to go. I do have a concern and lack of understanding under Item No. 6, the italicized statement, *wherefore further discussion this payment will be deemed to satisfy all requirements for wildlife and wildlife mitigation related to Energy Northwest's Hanford Project's Resolution 296*. I have not seen a copy of Resolution 296 recently, and I have a little difficulty trying to say that WNP-

1/4 site restoration and mitigation that's being offered for putting this off for 20 some odd years is worthy of offsetting all of Energy Northwest's mitigation requirements. And certainly we haven't looked at any possibility of what the actual site restoration might be for the Columbia Generating Station, which would possibly end in this same time frame.

CHAIR LUCE: This does not address Columbia Generating Station site restoration. What it does address, and Allen, or maybe Mike, you can fill in the blank here because there was some off-site restoration done in connection that, Jenene had some familiarity with sites 1 & 4 and site 2. They are two different site certificate agreements. Allen or Mike, you want to say anything about this?

MR. MILLS: In approving Resolution 296, the Council approved the funding for the off-site wildlife mitigation project on Rattlesnake Mountain. That project involved plant seeding and planting and was probably the second major effort at an off-site mitigation project. An earlier one basically involved bringing water up to the Rattlesnake project. That project is on 3,500 acres already owned by the Department of Fish and Wildlife, and Resolution 296 wasn't the original resolution, but about 10 or 12 years ago the Council approved a resolution that said off-site mitigation would be the preferred way that Energy Northwest could meet its wildlife mitigation requirement for both the Columbia project and the WNP-1/4 projects. Over the last 15 years, if you count preparation of some plans, Energy Northwest has funded that project and plan. About 300 to 400 thousand dollars have been spent over the past 15 years on the planning and the various project work. That project work was felt that it would satisfy the wildlife mitigation requirements for both 1 and 4 and Columbia.

CHAIR LUCE: That was for wildlife mitigation not the site restoration.

MR. CARELLI: I think that is the basis of my unease with the proposal here that this may satisfy the entire Energy Northwest habitat mitigation requirements on the Hanford project.

CHAIR LUCE: It does not do that. What it will do is, and that's why I noted this for further discussion, Energy Northwest has expressed some interest in having their obligations under Resolution 296 satisfied in their entirety. What I have told people so far was that we needed more information about Resolution 296 because like you, I have never seen it. Secondly, I think it's a reasonable way to proceed with this and leave the final negotiations where it has to come back to the Council for the final discussions and negotiations to look at the possibility of prorating this. In other words, WNP-1/4 is being settled here. WNP-2 is not. So we need to discuss with Bonneville and Energy Northwest some more about how to handle Resolution 296. They may have a clear point of view which is they would like everything satisfied, but that's why I put it down for further discussion. That's one of the minor issues that we haven't been able to close up, but I would rather go ahead and get this memorandum of understanding moving now, and then we will be talking about that issue during the course of the discussions and drafting on the MOU. In any case it's coming back to the Council for final approval.

MR. CARELLI: Okay.

CHAIR LUCE: Jenene.

MS. FENTON: I support the principles that are laid out, and based on the discussions that you and I have had concerning the Columbia Generating Station and its potential location in here, I have no problem going forward with the proposal as long as we do have a chance to talk about the final.

CHAIR LUCE: Absolutely, and we have done that for the past six months, and I will continue to do that with Council Member as any of you have questions. We will probably have some additional executive session workshops to discuss the MOU as it progresses. Are there any

more comments? Anything that wants to be offered? John, you're here and Cindy Custer from BPA. Anything to say for the good of the order?

MR. ARBUCKLE: No, other than for Mr. Carelli's question, I think you're talking a little bit of that Columbia's site restoration. We have a separate fund for that. I know we were talking about wildlife mitigation. We already have 47 million dollars in that fund which is a subset of the decommission funds.

CHAIR LUCE: Do you have a sense of the Council that we can ask Rusty Fallis, our legal counsel, to work with I assume Al Moncer or his designee and someone in the Bonneville General Counsel's Office? Yes.

MR. OAKES: Mr. Luce, my name is Loren Oakes. I'm now the project manager for the WNP-1 Site. I just want to offer one thing. As part of these negotiations, you know, we're intending to put a lot of money on the table, and it would be our intent that this would satisfy the wildlife mitigation for all three Energy Northwest projects at Hanford.

CHAIR LUCE: I understand that position, but the position has yet to be finalized, and I have been in discussions with Mr. Brost and others of Energy Northwest. Do we have a sense of the Council to ask Rusty to go forward?

MR. CARELLI: Yes.

CHAIR LUCE: Thank you. Rusty, you're going to have a busy next 30 days.

MR. FALLIS: Just to make sure I understand my charge here. I'm to work on the drafting of a memorandum of understanding; that then will be brought back to the Council. Subsequent to the Council's approving of that, then a revised site restoration agreement will be drafted that binds these principles.

CHAIR LUCE: I would hope that they would be done concurrently, because the site restoration agreement is as Mike said I think substantially completed. Is that correct?

MR. MILLS: I believe that's the case, yes.

CHAIR LUCE: So I would like to be able to circulate both the memorandum of understanding and the site restoration plan. Whether it's a contract or MOU or whatever it is, I would like to do both simultaneously, adopt the revised site restoration plan and the MOU. I assume the two will be coupled in the sense there will be some reference in the MOU to the attached site restoration plan. Does that help?

MR. FALLIS: Yes.

CHAIR LUCE: Thank you. I would like to note the presence of Dave Danner from the Governor's Office, the Office of Financial Management, Policy Division. Dave is now handling Energy Facility Site Evaluation Council matters. Thank you, Dave. Dave has been a lot of help with respect to the drafting of this agreement and we appreciate the support from the Governor's office.

MR. DANNER: Thank you.

CHAIR LUCE: Anything else with respect to that item?

ITEM NO. 5: SATSOP COMBUSTION TURBINE PROJECT

Phase I – Consideration of Reissuance of National Pollutant Discharge Elimination System Wastewater Permit

Allen Fiksdal, EFSEC Manager

CHAIR LUCE: All right. Having addressed that item, we will now move ahead to the Satsop Combustion Turbine Project. We have set aside for an additional month the air permit. Allen, will you be addressing that?

MR. FIKSDAL: Yes. Ms. Makarow can't attend. She's busy doing other important work for the Council. Staff met with Duke Energy and our Ecology permit writer and we are proceeding with the development of a revised Satsop air (PSD) permit for Phase 1 only. We're working to get the final permit ready for the Council action at your November meeting. We also had a discussion with Duke Energy and Energy Northwest how the deferral of construction and the impacts of the construction schedule may impact the status of the air permit.

As you probably remember a PSD permit requires the facility to be in continuous construction, and if they stop continuous construction, then they have an 18-month standby period. If they don't continue construction during an 18-month period, then the permit becomes invalid. Because the Satsop project is slowing down their construction progress, we met to try to determine how to ensure that the requirements of the PSD are continuing during this construction phase. What we have decided that we're going to do is have Duke Energy submit a revised six-month schedule, and that schedule will outline what they believe the progress will be for the next six months. That will become the vehicle for the Council to measure against and determine if during this period of construction slow down if they are continuing with construction or not. We had to have some measurable vehicle, and we decided that a new six-month schedule would be the best vehicle to measure against. We have drafted a letter, we are circulating that letter with Duke Energy now, and if that's agreeable the way we've described it to Duke, we will come to you at your next month's meeting with a proposal for you to approve the final PSD permit, for Phase 1 only.

CHAIR LUCE: Thank you. Any questions?

MR. IFIE: I have a question back to the issue of the NPDES? Is there any adverse effect of not considering that, the NPDES now, and deferring a decision to a month later since the rainy season is now coming upon us?

MR. FIKSDAL: The NPDES does contain provisions for storm water runoff, and that would be the only detriment to not taking any action today is that those conditions are not in place. However, because there are some issues relative to the operation of the plant and description of operation of the plant that what the company considers technical inaccuracies, we need to discussion with them to determine if there are inaccuracies in the permit. I don't think it would be prudent to come to the Council now with something that may be wrong and have you approve it. It's a choice that staff is making, and we think it's best to postpone it for a month to get it correct before you approve it.

MR. IFIE: One quick follow-up question. I thought we had a bunch of comments that were submitted on the NPDES and there were responses to those comments.

MR. FIKSDAL: Correct.

MR. IFIE: So is the company coming up with new comments that weren't on the table before?

MR. FIKSDAL: No. I think that's going to be part of our discussion, and it's my intent not to discuss substantive issues because that would give them a second chance of responding that the public wouldn't have. We don't want that. If there are technical inaccuracies, if we described

something incorrectly, if the description isn't exactly right, then I think we want to change it. But I don't want to get into discussions, and I don't think it would merit to get into discussions of whether it should be X number of parts per million of something rather than what the permit says. I think we have decided on the most substantive issues. What I want to ensure is that it's technically accurate.

MR. CARELLI: And for Tony and others' benefit, there is an NPDES permit currently issued to this site that covers storm water. That permit will remain in effect until it is revised or a new permit is issued, so it's not as if in the event of a storm, a large rainfall event that it would be causing a discharge illegally, so it would be covered under a permit.

MR. IFIE: That permit is adequate for right now.

MR. CARELLI: Yes.

MR. IFIE: There's no objective for this new permit?

MR. FIKSDAL: I just don't think we can take apart -- this is an existing permit -- and approve half of it today and another half later.

MR. IFIE: Okay.

CHAIR LUCE: We do have one other item on Satsop. Laura, do you have a report for us on Phase 1 and 2 status?

<i>Phase I/II Status</i>	<i>Laura Schinnell, ENW</i>
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MS. SCHINNELL: Yes, just a brief report. First, we would like to thank Council Members who came out to the site earlier this month. One of our big activities has been to work on equipment placement, meaning the large crane that you saw. All of those placements have been completed. The crane was dismantled last week. We are in the process of shipping it off site. That included putting the steam drums on the heat recovery steam generators and work also on the electric steam generators. We are also continuing with cooling tower erection, a dress out of the DSU transformers. We are doing electrical connections for the heaters and pipe support installation. We had 190 people on our payroll on October 10th. We expect to be continuing at this slow pace of construction right now through December and into January, and as part of our discussions on the PSD we will take a look at what we can provide.

CHAIR LUCE: Thank you. Any comments from Council Members? Questions?

MR. CARELLI: I do have a question. But in the site certification agreement we are talking about a ten-year build window; is that correct?

MR. MILLS: Yes.

MR. CARELLI: Somewhere hangs in the back of my mind that I read that if construction is not completed in five years something is triggered. Am I imagining this or is there another mid point condition in the site certification agreement?

MR. MILLS: I thought it was a reporting requirement, but if we could check, we will report to you at the next executive committee when we've got the right information.

MR. CARELLI: Sure.

CHAIR LUCE: Any other questions from the Council? Comments from the public?

ITEM NO. 6: CHEHALIS GENERATION FACILITY

<i>Construction Progress Report</i>	<i>Mike Mills, EFSEC Staff</i>
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CHAIR LUCE: All right. The Chehalis Generating Facility, Item No. 6. Is there a report with respect to the construction progress? Mike, do you have that report?

MR. MILLS: Yes. Tom Schneider is not able to attend today's meeting. I would also note that the Council visited the Satsop site and the Chehalis site on October 1st. The Council saw that project construction is progressing. I also had a chance to visit the site last Friday with Lauri Vigue from Department of Fish and Wildlife, and we, again, walked the site.

The plant is overall about 76 percent complete, and the Council Members saw the buildings are being erected and the equipment that's being put in place. They've made substantial progress during the summer months and are ahead of their schedule, but they're still looking at a start date at the end of October of next year.

I would also note that at the last Council meeting you approved a water mitigation procedure as a process where they could satisfy the site certification agreement provisions for acquiring water rights. The company has submitted a letter with documentation to the Council indicating that they are requesting credit for 52.46 acre feet of water towards the 102 acre feet requirement. I'll get a package out to Council members, and we will bring this forward for your review at your next executive committee meeting. That concludes my report for Chehalis.

CHAIR LUCE: Thank you. Council Members, questions? Comments? Comments or questions from the public? Mike, my recollection is that there's an obligation of something over a hundred acre feet.

MR. MILLS: 102.

CHAIR LUCE: 102. And if they don't acquire actual offset, then there is a payment of dollars associated with it.

MR. MILLS: Yes.

CHAIR LUCE: When is that?

MR. MILLS: It's at the end of this calendar year.

ITEM NO. 7: WALLULA POWER PROJECT

<i>Status Report</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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CHAIR LUCE: The next item on the agenda, Wallula Power Project.

MR. FIKSDAL: Council Members were in Walla Walla last week, and issued the order recommending approval for the Wallula Power Project. That order was served on all the parties on Wednesday, October 9th. The parties have until Monday, October 21st, to file any petitions for intervention, and the public comment as you recall for the PSD and the NOC is still open until October 24th. And after the close of the comment period, EFSEC and Ecology will evaluate comments if we receive any, and we will make recommendations to the Council on how to proceed with the final permit.

CHAIR LUCE: And at that time the Governor's office will be forwarded the original document for his action.

MR. FIKSDAL: If there are no substantive comments, or issues, or any action that the Council has to take, we will then forward it to the Governor's office. If there are issues or something that comes up, then we will bring them back to the Council for your consideration.

CHAIR LUCE: Thank you. Questions from the Council? Comments from the public?

ITEM NO. 8: BP CHERRY POINT

<i>Status Report</i>	<i>Michelle Elling, EFSEC Staff</i>
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CHAIR LUCE: The next item is BP Cherry Point, cogeneration facility. Michelle.

MS. ELLING: Thank you. First, I'd like to talk about the development of the draft environmental impact statement for the BP Cherry Point project. In the Council packages, you will see there's a letter from the Corps of Engineers and a letter from Ecology, concerning wetland issues. Mike Torpey from BP met with Susan Meyer of Ecology on October 1st and with Olivia Romano of the Corps of Engineers on October 3rd to discuss the issues that were raised in these letters. Another meeting has been scheduled for October 21st to include EFSEC staff, Shapiro, Ecology, and the Corps to discuss BP's proposed changes to the wetlands mitigation plan. It's BP's intent to address the comments raised by the agencies in a revised wetlands mitigation plan that will be submitted to EFSEC and other interested parties around the end of October.

Also in the Council packages you will see there is a letter from Shapiro & Associates concerning a delay in the submittal of the administrative Draft EIS to EFSEC that was originally scheduled for last Friday, October 11th. EFSEC staff will be meeting Shapiro and BP on October 23rd to discuss the additional budget requests from Shapiro. The delay in the development of the Draft EIS is due to the outlying wetland issues and the timing of the cultural resources study.

According to Mike Torpey, the cultural resources study has begun today, and the report is expected to be submitted to the Council around the end of October. Once this information has been submitted to the Council, Shapiro will be able to provide us with a revised schedule for the development of the Draft EIS.

I would also at this time like to update the Council on the BP adjudicative proceeding. The notice of adjudicative proceedings was published, emailed, and mailed by September 22nd. The petitions for intervention must be received by October 22nd. We've currently received only one petition for intervention and that's from Whatcom County. The staff will distribute the draft hearings guidelines and the notice of first prehearing conference to all petitioners immediately after the 22nd. BP will have one week, until October 29th, to respond in writing regarding any request for intervention. And the first prehearing conference is set for 1:00 p.m., Tuesday, November 5th, here at Rowe Six.

CHAIR LUCE: Thank you. Questions of Michelle? Yes, Jenene.

MS. FENTON: In the package, Michelle, you included the letter from the Corps of Engineers.

MS. ELLING: Yes.

MS. FENTON: And it indicated that unless several pieces of information were provided that their application would be cancelled within 30 days of their receipt of this letter. The dates that you outlined for meetings between BP and the Corps and Ecology seem to be pushing right up to that 30 days. Has there been some provision from the Corps of Engineers to extend that time frame or are we still looking at 30 days?

MS. ELLING: No, we're still looking at 30 days, that is my understanding.

MS. FENTON: And Mike Torpey has indicated that he is going to be submitting revised plans by the end of October.

MS. ELLING: They're fairly confident they can meet that date.

MR. IFIE: How are we doing on the schedule? I know last month there was discussion about an ambitious schedule.

MS. ELLING: What Shapiro has in their letter that's been provided to you is an estimate that once they receive the wetlands mitigation plan and the cultural resources study they will be able to complete the administrative Draft EIS. y, Shapiro indicated that they could get an administrative draft to us about 30 days after receiving those studies. So once we received them, that's when we will know the new schedule.

MS. FENTON: But based on the Corps' letter, it should be in no later than the end of October, correct?

MS. ELLING: That's right.

MS. FENTON: And then Shapiro needs 30 days to put together the final administrative draft based on the outstanding pieces of information.

MS. ELLING: That's right.

MS. FENTON: What does that do to the EIS schedule that was originally identified.

MS. ELLING: It actually bumps it out about seven weeks.

CHAIR LUCE: I think we adopted that ambitious schedule with the understanding that the dates could be met, and regrettably this one date, the submission of the wetland and culture resources pieces for the Draft EIS hasn't been able to be met. Consequently it's going to take longer than we hoped it would. Any other questions? Comments from the public? All right. Thank you very much.

ITEM NO. 10: SUMAS 2 GENERATION FACILITY

<i>Status Report</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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CHAIR LUCE: The next item is the Sumas 2 Generation Facility status report.

MR. FIKSDAL: I think most people know that Whatcom County has filed a petition in Superior Court against the Governor and the Council, and Mr. Fallis is working on that diligently, and I am sure he will do a superior job.

Environment Canada has submitted a letter to EPA asking for review of certain parts of the PSD permit, and basically they're looking at asking EPA to look at the description of the economic portion of the best available control technology. We don't know whether this is to be considered an appeal or not. In your packets there's a letter or some information about some submittals that the company has sent to us. One is to meet a site certification agreement condition. They have identified Dave Eaden as liaison between Sumas Energy and the Council. There's a legal description of wetland mitigation property, and they have the first month to report on the NOx and PM10 offset requirements. The NOx and the PM10 offset report basically stated they have formed a team to begin looking at various options that they have to find offsets, and there's a condition also in there on Page 4, Step 5 that they are proposing to look for offsets. If they are unable to find the offsets, they will develop the RFP to find the offsets. We've asked Eric Hanson who's leading up the team for Sumas Energy to come to your executive committee meeting on the 1st of November and describe exactly what they're going to do and how they're going to do it. You can have a discussion with him and the company about their progress and their proposal at that meeting.

CHAIR LUCE: Great. Anything else?

MR. FIKSDAL: That's it. Questions from the Council? Any questions from the public? Comments?

ITEM 11: CHAIR'S REPORT

<i>Standards/Rules</i>	<i>Jim Luce, EFSEC Chair</i>
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CHAIR LUCE: Hearing none, we will move along to the next item, the Chair's report, standards and rules. I want to thank Irina, even though she's not here, for her work in helping facilitate the loading of the Krogh report which incorporates all the rules and the minutes and the report regarding the clear quantifiable standards for siting the power plants. That's now on the web site. And what we need to do now is try to begin to think about some discussions in terms of how best to proceed. I think that maybe we could set that for brainstorming at one of the next executive sessions of the Council. I think we had some discussions about preferred alternatives. That may be a very good way to go. We will need to have some more public meetings when the time is appropriate. We've heard from all of the stakeholders. Now there may be some members of the public we haven't heard from.

We also need to look at compliance with SEPA. So there's a number of different important issues that we need to start addressing, first, maybe at an executive session and then maybe in full Council, regular Council meetings, so between now and the next executive session, if you could, all of you think a little bit how you would like to proceed. Then let's do a brainstorming session at that time. I don't want to let a lot of grass grow under that report because momentum is very important in an issue like this, and if we let too much time pass, a lot of the value of the product will become stale. Any questions or thoughts or comments? Any comments from the public? Yes, sir, Counsel for the Environment.

MR. LUFKIN: I guess I am just a little unclear. It was my recollection that at the conclusion of the work group session it was pretty much generally agreed that there was going to be a preferred alternative, and that was going to be the avenue that the Council would take in terms of proceeding with the rule making. I guess what I just heard from you indicates that that might not be how things proceed, and I just wondered if I could get a little clarification as to whether I had that wrong or whether you're thinking of going a different route?

CHAIR LUCE: Well, a couple of observations. First of all, the Council hasn't made any final decision. We've talked about different options. My instinct, and I think the instinct of some Council members is that developing a preferred alternative is preferred. On the other hand, the question is do you immediately elect preferred alternatives or do you listen to the broader public from whom we have yet to hear? And if we do that, what forum do you do that in? How do you accomplish that? And that's sort of a parallel path with some issues that still need to be decided regarding compliance with the State Environmental Policy Act. Either way no matter how we comply we are going to have public sessions. So you misinterpreted me if you heard me say that we were abandoning our instinct to go with a preferred alternative, but no final decision has been made yet. If you have some thoughts on that, we would love to hear it.

MR. LUFKIN: I still would think that that is a better approach to go with the preferred alternative. I think the public input that you suggested just a moment ago that, during the stakeholder group we did have the parties present that have the most experience and knowledge in working with these issues, so therefore the Council at this point has been presented with a number of different options, and by then selecting a preferred option other members of the public

through the normal rule making procedure will have ample opportunity to comment on those. I guess I am just kind of questioning what we hope to gain from the additional public meetings before selecting the preferred alternative?

CHAIR LUCE: Darrel.

MR. PEEPLES: I just have one comment. I think I don't care if you have another meeting or not, but I think all you're going to get is the same people back again, and you're going to hear the same thing. I think if you have a hearing like that and open it up, exclude anybody else that has spoken. If not, it's just going to be regurgitation of everything you heard from us.

CHAIR LUCE: I think what you're saying is very possible. Certainly the most interested members of the public would be those stakeholders who've already attended our hearings, our workshop meetings.

MR. PEEPLES: What you're saying, I think the preferred alternative right now is a preferred alternative.

CHAIR LUCE: I note the presence of a member of the Energy Policy Office. Do you have any observations?

MR. ANDERSON: I'm thinking about what a preferred alternative means, and I think there are some ranges. If you pick, for example, one of the exact rules that was drafted and then provided by one of the stakeholders that's definitely a preferred alternative, but it's also, you know, explicit rule language, and that's pretty strong. If you mean to go with exact language, that almost gets to the filing of a CR 102 saying we have gone through this whole process and here's the language that we would like to adopt. I think that it might be better to have public input before you go quite that far. On the other hand, you could have a preferred alternative in which you say we want a greenhouse gas standard or we don't want a greenhouse gas standard or we want it to have certain general characteristics or not to have certain characteristics is what I'm saying, and that's a preferred alternative. But it's not as strong as here is the exact text of the language of the rule that we would like to adopt. So between those two concepts, I think we would prefer the broader perspective and then take public comments and you will get it from the stakeholders as well. You still have a preferred perspective, but it's not necessary for selecting one exact rule that has been adopted. And if you're doing it that way, so you haven't entered into the CR 102 process immediately, then I think you will have ample time for public input in the rule making process, and I wouldn't think it would be necessary to hold some sort of public meetings now to talk about what came out of the stakeholders' process. That is sort of separate from the formal rule making process. Does that make sense to you?

CHAIR LUCE: Well, I'll say yes and ask a clarification later, but we do have to comply with SEPA as well and SEPA will require some public involvement. So the question is can you combine, and we are brainstorming at this point, can you combine your SEPA meetings with some opportunity for public involvement at the same time? Yes, Mike.

MR. LUFKIN: Mr. Chairman, I would like to make the comment that I guess that's one of the areas that I'm a little confused. You can't begin the SEPA process until you have an identifiable rule that's been developed; that this is what we're actually going to look at under SEPA in terms of the impacts. And at this juncture without some type of whether we call it a preferred alternative or some more clear indication of where the Council is given the different alternatives that have been presented to them at this point through the process that we just went through, SEPA to me seems like that's the next step. That's after once we get a little bit clearer picture in terms of where the Council is going.

CHAIR LUCE: Well, come to the next executive session, and we'll all have a lot of fun wrestling with this. Anything else for the good of the order? Next year's meeting scheduling. Allen.

ITEM NO. 12: OTHER

<i>Next Year's Meeting Schedule</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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MR. FIKSDAL: Looking forward to next year we have a meeting schedule for next year. All the regular scheduled monthly meetings are going to be in this location. The Council's executive committee meetings are all in conference room 308 at our Council offices, so mark your calendars for fun next year.

CHAIR LUCE: Anything else from the Council, from the staff, from the public? If not, adjourned. Thank you.

ITEM NO 13: ADJOURN

Whereupon, the meeting was adjourned at 2:26 p.m.